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**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

SALVADOR SILVA, DECEASED, by  
and through his Successor in Interest,  
SONJA ALVAREZ, SONJA ALVAREZ,  
Individually,

Plaintiff,

vs.

SAN JOAQUIN COUNTY, a public  
entity; SAN JOAQUIN COUNTY  
SHERIFF-CORONER PATRICK  
WITHROW, in his individual and official  
capacities; ROBERT HART, M.D.; FOZIA  
NAR, L.V.N.; MARY CEDANA, R.N.;  
SARAI HARDWICK, L.V.N.; CYNTHIA  
BORGES-ODELL, MFT; NICHOLE  
WARREN, P.T.; MANUEL  
RODRIGUEZ-GALAVIZ, MFT;  
MARICEL MAGAOAY, L.V.N.;  
MANDEEP KAUR, R.N.; CHERYL  
EVANS, A.S.W.; CHRISTEL BACKERT,  
FNP; ROBYN MENDOZA, NP, and  
DOES 1–20; individually, jointly, and  
severally,

Defendants.

No: 2:20-cv-01461-JAM-KJN

**STIPULATION AND ORDER RE:  
“FIRST LOOK” AGREEMENT RE:  
DEFENDANTS’ FEDERAL RULE OF  
CIVIL PROCEDURE 45 SUBPOENAS  
SEEKING DECEDENT SALVADOR  
SILVA’S MEDICAL RECORDS**

1 The parties, by and through their respective attorneys of record, hereby stipulate to the  
2 following order being issued in this matter:

- 3 1. On September 15, 2021, Plaintiff's counsel received Federal Rule of Civil Procedure 45  
4 subpoenas for the Production of Documents which counsel for Defendants served or will  
5 serve by Titan Legal Services, Inc. on the following entities:

6 A. St. Joseph's Medical Center (Med. Records Dept.), seeking "Any and all  
7 medical records, files, reports, correspondence, whatsoever, relating to any  
8 care, treatment, diagnosis, prognosis, consultation and/or findings, including  
9 but not be limited to, any and all emergency room records, nurses notes,  
10 SOAP notes, operative reports, radiology reports, pathology reports, all test  
11 and test results, medication records, physical and/or occupational therapy  
12 records, workers' compensation records, sign-in sheets, color photographs,  
13 patient information sheets, handwritten notes, transcriptions, prescriptions,  
14 telephone messages, electronic media and any documents in the file from  
15 other health care providers, from any and all times to the present date  
16 pertaining to Salvador Silva, III.";

17 B. San Joaquin General Hospital (Med Records Dept.), seeking "Any and all  
18 medical records, files, reports, correspondence, whatsoever, relating to any  
19 care, treatment, diagnosis, prognosis, consultation and/or findings, including  
20 but not be limited to, any and all emergency room records, nurses notes,  
21 SOAP notes, operative reports, radiology reports, pathology reports, all test  
22 and test results, medication records, physical and/or occupational therapy  
23 records, workers' compensation records, sign-in sheets, color photographs,  
24 patient information sheets, handwritten notes, transcriptions, prescriptions,  
25 telephone messages, electronic media and any documents in the file from  
26 other health care providers, from any and all times to the present date  
27 pertaining to Salvador Silva, III.";

1 C. San Joaquin County Behavioral Health Services, seeking “Any and all  
2 medical records, files, reports, correspondence, insurance records, itemized  
3 billing records and payment records (proof of amounts paid) whatsoever,  
4 relating to any care, treatment, diagnosis, prognosis, consultation and/or  
5 findings. Documents should also include, but not be limited to, any and all  
6 emergency room records, nurses notes, SOAP notes, operative reports,  
7 radiology reports, pathology reports, all test and test results, medication  
8 records, physical and/or occupational therapy records, workers' compensation  
9 records, sign-in sheets, color photographs, patient information sheets,  
10 handwritten notes, transcriptions, prescriptions, insurance/payment files,  
11 telephone messages, electronic media and any documents in the file from  
12 other health care providers from any and all times to the present date  
13 pertaining to Salvador Silva, III.”;

14 D. St. Joseph’s Medical Center (Billing Dept.), seeking “Any and all billing  
15 records, including but not limited to itemized breakdown of charges, records  
16 of payments and/or discounts with proof of amounts paid, contractual  
17 adjustments, write-offs, liens and balance due, billing information with  
18 procedure and diagnosis codes, statements, computer print-outs, fees for  
19 professional services and correspondence from Medicare, Medicaid, Medi-  
20 Cal, the claims' records, from first date of treatment to the present pertaining  
21 to Salvador Silva, III.... Documents should also include, but not be limited  
22 to, any data stored electronically.”;

23 E. San Joaquin General Hospital (Billing Dept.), seeking “Any and all billing  
24 records, including but not limited to itemized breakdown of charges, records  
25 of payments and/or discounts with proof of amounts paid, contractual  
26 adjustments, write-offs, liens and balance due, billing information with  
27 procedure and diagnosis codes, statements, computer print-outs, fees for  
28

professional services and correspondence from Medicare, Medicaid, Medical, the claims' records, from first date of treatment to the present pertaining to Salvador Silva, III.... Documents should also include, but not be limited to, any data stored electronically.”;

The subpoenas have a production date and time of September 28, 2021, at 10:00 a.m.

2. Plaintiff’s counsel contend that the subpoenaed documents likely contain privileged information to which Defendants are not entitled, and that the subpoenas as drafted are overbroad insofar as they seek discovery of all Salvador Silva’s medical records and so seek information protected by Mr. Silva’s physician-patient privilege and privacy rights, and which is neither proportional to the needs of this case nor relevant to the claims and defenses in this matter.

3. Plaintiff’s counsel and Defendants’ counsel met and conferred by email on September 17, 2021. The parties agree to the following “First-Look” Procedure:

- a. Counsel for Defendants shall instruct Titan Legal Services, Inc. to obtain the available subpoenaed documents by December 15, 2021; however, instead of producing the documents to counsel for Defendants, Titan Legal Services, Inc. shall instead produce the documents directly to Plaintiff’s counsel’s business address: Haddad & Sherwin LLP, 505 17th Street, Oakland, CA 94612.
- b. Upon receipt of the subpoenaed documents from Titan Legal Services, Inc., Plaintiff’s counsel will then have seven (7) business days to review the documents to see if they contain any privileged information. If the documents do contain such information, Plaintiff’s counsel shall redact and/or withhold the pages containing that information and Plaintiff’s shall create a privilege log complying with Federal Rules of Civil Procedure 45(e)(2)(A)(i)–(ii) and 26(b)(5)(A)(i)–(ii).
- c. On or before the seventh (7<sup>th</sup>) business day after receiving the records from Titan Legal Services, Inc., Plaintiff’s counsel shall serve the subpoenaed documents by Federal Express Priority Overnight on Defendants’ counsel or electronically,

1 depending on how the documents were produced to Plaintiff's counsel; if Plaintiff's  
2 counsel has redacted and/or withheld any information, they shall also concurrently  
3 serve the privilege log described in ¶ 3(b), above.

4 4. Counsel for Defendants shall pay for Titan Legal Services, Inc. in obtaining the documents  
5 and producing them to Plaintiff's counsel, and Plaintiff's counsel shall pay to send them by  
6 Federal Express Priority Overnight to Counsel for Defendants.

7 5. Counsel for Defendants reserves their rights to seek production of any documents that are  
8 withheld and/or redacted by Plaintiff's counsel pursuant to the terms of this agreement.  
9 Should any such discovery dispute not be subject to resolution through the meet and confer  
10 process, Defendants reserve their rights to file discovery motions with the court seeking an  
11 Order requiring production of withheld documents.

12  
13 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

14 Dated: December 8, 2021

HADDAD & SHERWIN LLP

15  
16 /s/ Teresa Allen

17 TERESA ALLEN  
Attorneys for Plaintiff

18 Dated: December 8, 2021

BURKE, WILLIAMS & SORENSEN, LLP

19  
20 /s/ Kyle Anne Piasecki

21 KYLE ANNE PIASECKI  
Attorneys for Defendants

22  
23 **ORDER**

24 PURSUANT TO STIPULATION, IT IS SO ORDERED.

25 Dated: December 9, 2021

26  
27 

28 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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